**The Legal Doctrine of *In Loco Parentis***

The phrase ***in loco parentis*** is Latin for "in the place of a parent" and is a recognized legal doctrine that governs the behavior and responsibilities of schools. In general, it means that while a student is in the custody of a school, the school can and often should act as a parent. In this way, schools accept certain responsibilities for their students; school employees who act *in loco parentis* should act in the best interest of the students, and take appropriate steps to supervise and protect them.

When schools do not reasonably supervise and adequately monitor students in order to ensure their psychological and physical safety, there may be a price to pay. This means that schools have to make “parent-like” decisions about students and that they may be liable or responsible for injuries that might result.

When colleges and boarding schools supervise and care for students who are in their charge around the clock, they have to walk a delicate line. Society often thinks of schools as safe havens for students and places to nurture them and to promote responsible independence. However, schools can not control every aspect of a student’s life, and tragic accidents and incidents do take place in schools.

To understand the serious implications of the *in loco parentis* doctrine, read the following newspaper articles. Please annotate the articles and consider the following issues:

ages of the students

abilities of the students (physical and/or mental condition)

where the incidents took place

what time of day the incidents took place

who was or should have been supervising the students

the level of supervision offered or required

information known by the parents

privacy rights of the students

level of risk involved in the student activity

# Who Was Responsible For Elizabeth Shin?

**“by Deborah Sontag**

**April 28, 2002 for “The New York Times”**

The day before Elizabeth Shin set herself on fire in her dormitory room at the Massachusetts Institute of Technology, her parents and little sister drove up from suburban New Jersey for a quick visit. The Shins did not know that Elizabeth had been threatening suicide or indeed that the very night before she tried and failed to summon the nerve to stick a knife into her chest. They did not know that a school psychiatrist had considered hospitalizing her. And so they saw what they usually saw, or perhaps what they wanted to see: their giggly, harried 19-year-old caught up in her busy, overachieving life.

It was a last-minute trip, a Sunday jaunt with a trunk load of presents. After unloading on Massachusetts Avenue in front of Random Hall, the Shins lugged cases of spring water and tomato juice, boxes of cereal and lo mein, up to their daughter's room. For a finale, they delivered and hooked up a new television and VCR. Elizabeth seemed like herself; she was palling around with a dorm mate whom she teasingly introduced as her male twin. Her eyes did look tired and puffy, but her parents knew that she had a lot going on, what with her studies, her clarinet performances, her fencing meets. That was M.I.T., they thought, and that was Elizabeth, always pushing herself.

During an early supper with her family at a Chinese restaurant, Elizabeth hunched over sheet music, preparing for a rehearsal later that evening of her chamber music quartet. She discussed getting passport photos taken for a summer trip to Korea, her parents' homeland. She invited her little sister, Christie, to spend a weekend with her. And then she more or less ran off, and her father, as usual, shouted after her, ''If you need us, we're only a phone call away.''

The Shins' phone call came the next night, but not from Elizabeth. ''There's been a fire,'' an M.I.T. official began. The Shins have been plagued ever since by that final visit with Elizabeth. They suspect that people wonder about them, about how they could have driven away that chilly April night and left Elizabeth to her fate. ''Some people might ask, 'How could you not see?' '' Cho Hyun Shin, her father, says. ''How we wish. How we wish we had seen some sign. How we wish that we had known. How we wish, more to the point, that we had been told.''

Two years after Elizabeth's death on April 14, 2000, the Shins have filed a $27 million wrongful death suit against M.I.T. in a Massachusetts superior court. The Shins claim that M.I.T., overly concerned with protecting Elizabeth's confidentiality, failed to inform them of their daughter's precipitous deterioration in the month before her death. This, they say, robbed them of a chance to oversee her care or perhaps even to save her life. M.I.T., the Shins claim, made matters worse by failing to act in their place, ''in loco parentis to the deceased.'' The school did not provide adequate, coordinated mental health care for their daughter, they claim, nor a proper emergency response to the fire.

## Suit filed in teen's drowning

Student died in St. Paul's pool. By Allison Steele for the “Concord Monitor”

June 24, 2005

The parents of the 15-year-old St. Paul's School student who drowned in the school's swimming pool last November have sued St. Paul's for negligence and for the loss of their son. The lawsuit alleges that the school's lifeguards were not watching the pool when Clifford Nyquist, a star athlete, lost consciousness in four feet of water.

Nyquist's parents, Lee Nyquist and Leslie Nixon Nyquist, also state in the lawsuit that the school did not take enough safety precautions before letting students use the brand-new pool, and that the school's lifeguards were inadequately trained.

"St. Paul's School had an obligation to provide appropriate safeguarding and lifeguarding activities to protect users of its lap pool," the suit states. ". . . Contrary to the forestated duties of St. Paul's School, its employees and agents, St. Paul's breached each and every duty to its students."

The Nyquists filed suit Tuesday in Hillsborough County Superior Court. The lawsuit does not request any set amount of damages.

Reached yesterday at the family's New Boston home, where the Nyquists live with their daughters Christina and Carla, Lee Nyquist did not want to comment on the lawsuit. But he said the family is trying to move on as best it can.

"Obviously, we're very deeply grieved by the tragedy of our son's death," he said.

Bill Matthews, acting rector of St. Paul's, said in a statement that the school can't comment on pending litigation.

"Cliff Nyquist was a cherished member of our community, and our thoughts and prayers continue to be with his family," Matthews said.

Nyquist was popular and successful, a straight-A student who was near the top of his class and an extraordinary athlete. He played almost all sports, and he was on the school's varsity ski racing and baseball teams as a freshman. He was also, his friends and relatives say, an exceptionally thoughtful and self-possessed teenager who radiated kindness.

Those who knew him have struggled to understand how Nyquist, a strong swimmer in perfect health, could have drowned. A week after his death, an autopsy concluded that he had died from complications of near-drowning. Some of Nyquist's friends told the police that Nyquist might have been trying to see how long he could hold his breath underwater, and the police speculated that Nyquist might have fainted. But there have been few other answers.

The Olympic-sized swimming pool, part of a $24 million athletic complex completed last year, had been open for less than a month when Nyquist died. The lawsuit states that the school didn't tell parents that the pool was open to students, and that St. Paul's hadn't yet sought parents' permission allowing their children to use the pool. In addition, it says, the school did not require students to sign in or out of the pool, or to use a "buddy system" where students keep an eye on one another.

On Nov. 7, 2004, Nyquist and some friends went to the pool at about 3:30 after an indoor soccer game. There were two lifeguards on duty, and the pool's manager was there. The manager had her children with her, according to the lawsuit, and the four-year-old son of one of the lifeguards was also there. The school's athletic director was there, as well.

While three other students were in the pool swimming laps, the lawsuit alleges that Nyquist drowned in the shallow end as a result of "shallow water blackout," a rare phenomenon that can be brought on by taking a series of short breaths before going underwater.

According to the U.S. Naval Safety Center, swimmers who suffer from shallow water blackout often take short breaths in an effort to hold their breath for longer periods of time. Breathing that way can cause the swimmer to hyperventilate, depriving the brain of oxygen and leading to sudden unconsciousness. The blackout happens without warning, and victims likely die without any idea of what is about to happen.

According to the center, unconscious swimmers do not always appear to be in danger and can fool lifeguards because they may even appear to be making coordinated movements. But the longer the brain goes without oxygen, the more likely the swimmer is to suffer brain damage.

The lifeguards at the pool did not see that Nyquist was in trouble for a substantial period of time, according to the filing. Nyquist was submerged for so long, in fact, that by the time someone pulled him from the water to perform CPR, Nyquist's face had become disfigured by the effects of the drowning.

"He was not recognizable by any of the individuals present at the pool, including a man who had coached him," the lawsuit states. "It was necessary for the school to call the roll in each of the dormitories in order to determine which student was missing and unaccounted for, so that Clifford could be identified. As a result, his parents were not notified of the event until almost three hours after it happened."

Nyquist was taken to Concord Hospital, alive. He died at 11:30 that night.

"As a direct result of the negligence of St. Paul's School, its agents and its employees, Clifford R. Nyquist suffered a near drowning incident, resulting in severe and irreversible brain damage and organ damage, ultimately resulting in his wrongful death," the lawsuit states.

The lawsuit comes at a particularly rocky time for the boarding school, which has attracted national media attention in the past year due to increasing scrutiny over its finances.